S
336.276
E4m

1969
STATE DOCUMENTS

Montana Inheritance Tax

State Board of Equalization

Oct. 1, 1957

J. F. REID, Chairman
E. J. BYRNE
W. J. WINTERS
} MEMBERS OF THE BOARD

MSU NOV 10 '76

Montana State Library

3 0864 1004 5539 6

91-4401. (10400.1) **Taxes On Transfer—When and How Imposed.** A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation except the State of Montana, or any of its institutions, county, town or municipal corporations within the state, for strictly county, town, municipal or other public purposes, and corporations of this state organized under its laws, or voluntary associations, organized solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, in the following cases, except as hereinafter provided:

(1) By a resident of state. When the transfer is by will or by intestate laws of this state from any person dying possessed of the property while a resident of the state.

(2) Nonresident's property within state. When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death.

91-4402. **Transfers In Contemplation of Death.** When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within the state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift, made within three (3) years prior to the death of the grantor, vendor or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without a fair consideration in money or money's worth shall, unless shown to the contrary be deemed to have been made in contemplation of death within the meaning of this section, but no such transfer by deed, grant, bargain, sale or gift, made before such three year period shall be treated as having been made in contemplation of death providing, however, that nothing herein contained shall be deemed to have modified, amended, or repealed the provisions of section 91-4408 of the Revised Codes of Montana, 1947.

91-4403. **Tax—When Imposed.** Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this act; provided that the provisions of this act shall apply to all estates of all decedents who have died since the first day of April, 1921, and which estates remain undistributed on the date when this act takes effect, to the same extent and in the same manner as though this act had been in full force and effect at the dates of death of such decedents, and if any tax shall have been paid by any executor, administrator, heir, legatee or devisee of any such decedent before the date when this act takes effect, the

amount of such tax so paid shall be allowed as a credit on the total amount of tax required to be paid by such executor, administrator, heir, legatee, or devisee under the provisions of this act.

91-4404. **Transfers Under Power of Appointment.** Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act, shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related, had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

91-4405. **Joint Estates, Government Bonds, Tenants by the Entirety, Joint Bank Accounts, and Similarly Held Property.** Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, inscribed in co-ownership form, or held in joint tenancy by two (2) or more persons, or as tenants by the entirety, or is deposited in any bank or other depositary in the joint names of two (2) or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer. The tax is upon the transfer or decedent's interest, one-half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint tenants, tenants by the entirety, joint depositors, holders in co-ownership form, or persons, as tenants in common, and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent. This section shall not be construed to repeal or modify the provisions of section 91-4402, Revised Codes of Montana, 1947.

91-4406. **Insurance Part Of Estate.** All insurance payable upon the death of any person over and above fifty thousand dollars ($50,000.00), shall be deemed a part of the property and estate passing to the person or persons entitled to receive the same and if payable to more than one person the said fifty thousand dollars ($50,000.00) exemption shall be prorated between such persons in proportion to the amount of insurance payable to each.

91-4407. **Tax on Clear Market Value—Deductions.** The tax so imposed shall be upon the clear market value of such property passing by any such transfer to each person, institution, association, corporation or body politic, at the rates hereinafter prescribed and only upon the excess of the exemption hereinafter granted to such person, institution, association, corporation or body politic, and in determining the clear market value of the property so passing by any such transfer the following deductions, and no other shall be allowed; debts of the decedent owing at the date of death, expenses of funeral and last illness, all Montana state, county, municipal and federal taxes, including all penalties and interest thereon, owing by decedent at the date of death, the ordinary expenses of administration, including the commissions and fees of executors and administrators and their attorneys actually allowed and paid, and federal estate taxes due or paid.

91-4408. **Recording Date Prima Facie Date of Transfer—Presumption as to Transfers Recorded After Death.** All transfers of property real, personal, or mixed, or of any interest therein, coming within the provisions of this section shall be prima facie proof, for the purposes of this act, to have been made as of the date upon which the papers evidencing such transfer are recorded, and all such transfers, if recorded after the death of the person or persons making such transfer, whatever the form of such transfer, shall be deemed, for the purposes of taxation under the provisions of this act, to have been made by will.

91-4409. (10400.2) **Primary Rates, Where Not In Excess of $25,000.00.** When the property or any beneficial interest therein passes by any such transfer to any person, institution, association, corporation or body politic, where the amount of the property shall exceed in value the exemption hereinafter specified, and shall not exceed in value twenty-five thousand dollars ($25,000.00), the tax hereby imposed shall be:

(1) Two per cent. Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal issue, lineal ancestor of the decedent, or any child adopted as such in conformity with law, or any child to whom such decedent for not less than ten (10) years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth (15) birthday, and was continuous for ten (10) years, or any lineal issue of such adopted or mutually acknowledged child, at the rate of two per cent. (2%) of the clear value of such interest in such property passing to such person.

(2) Four percent. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife of a son, or the husband of a daughter of the decedent, at the rate of four per cent. (4%) of the clear value of such interest in such property passing to such person.

(3) Six per cent. Where the person or persons entitled to any beneficial interest in such property shall be the uncle, aunt or first cousin of the decedent, at the rate of six per cent. (6%) of the clear value of such interest in such property passing to such person.

(4) Eight per cent. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of eight per cent. (8%) of the clear value of such interest in such property passing to such person, institution, association, corporation or body politic.

91-4410. (10400.3) **Other Rates, Where In Excess of $25,000.00.** The foregoing rates in section 10400.2 are for convenience termed the primary rates:

When the amount of the clear value of such property or interests exceeds twenty-five thousand dollars ($25,000.00), the rates of tax upon such excess shall be as follows:

(1) Rates where amount $25,000.00 to $50,000.00. Upon all in excess of twenty-five thousand dollars ($25,000.00), and up to fifty thousand dollars ($50,000.00), two (2) times the primary rates.

(2) Rate where amount $50,000.00 to $100,000.00. Upon all in excess of fifty thousand dollars ($50,000.00), and up to one hundred thousand dollars ($100,000.00), three (3) times the primary rates.

(3) Rate where amount over $100,000.00. Upon all in excess of one hundred thousand dollars ($100,000.00), four (4) times the primary rates.

91-4411. (10400.3a) **Estate Tax.** (a) In addition to the taxes hereinabove imposed, an estate tax is hereby imposed upon the transfer of all estates which are subject to an estate tax under the provisions of the United States Revenue Act of 1926, and amendments thereto, where the decedent, at the time of his decease, was a resident of this state. The amount of said estate tax shall be equal to the extent, if any, of the excess of the credit of not exceeding eighty per cent. (80%), allowable under said United States Revenue Act, over the aggregate amount of all estates, inheritance, transfer, legacy and succession taxes paid to any state or territory or the District of Columbia, in respect to any property in the estate of said decedent. Provided, that such estate tax hereby imposed shall in no case exceed the extent to which its payments will effect a saving or diminution in the amount of the United States estate tax payable by, or out of the estate of the decedent, had subdivisions (a) to (h) not been enacted. The tax imposed herein shall be collected by the several county treasurers or the state treasurer and distributed as hereafter provided.

(b) When payable. The estate tax shall be payable to the county treasurer of the county in which such estate is being probated at the same time, or times, at which the United States tax is payable, and shall bear interest, if any, at the same rate and for the same period as such United States tax.

(c) Liability. Administrators, executors, trustees and grantees under a conveyance, made during the grantor's life and taxable hereunder, shall be liable for such taxes with interest, until the same have been paid.

(d) Lien. Said taxes and interest shall be, and remain, a lien on the property subject to the taxes until the same are paid.

(e) Extension of time. The district court of the county in which such estate is being probated may, for cause shown, extend the time of payment of said tax whenever the circumstances of the case require.

(f) Duplicate returns. It shall be the duty of the legal representative of the estate of any decedent, who was a resident of this state at the time of his death and whose estate may be subject to the payment of a United States estate tax, to file duplicates of the United States estate tax returns with the district court of the county in which such estate is being probated. He shall also file with such court a certificate or other evidence from the Bureau of Internal Revenue showing the amount of the United States estate tax as computed by that department. The district court shall hear all parties desiring to be heard with respect to the amount of state estate tax and shall enter an order determining such tax and the amount thereof so due and payable. Any person in interest aggrieved by such determination shall have the same right of rehearing and appeal as is now provided for in the determination of inheritance taxes.

(g) Intent of subdivisions (a) to (h). It is hereby declared to be the intent and purpose of subdivisions (a) to (h) to obtain for this state the benefit of the credit allowed under the provisions of said United States Revenue Act, to the extent that this state may be entitled by the provisions of said act, by imposing additional taxes and the same shall be liberally construed to effect this purpose.

(h) Provisions applicable. The provisions of section 91-4401 to 91-4456, inclusive, relating to the tax on inheritances and transfers, shall apply to the taxes imposed by subdivisions (a) to (h), in so far as the same are applicable and not in conflict with the provisions hereof.

91-4412. **Credit Allowance on Inheritance Taxes Paid By Resident Decedents to Other States.** The tax imposed by section 91-4401 to 91-4411 shall, as to a resident of the state of Montana who died domiciled in Montana, be credited with the amount of any valid inheritance, estate, legacy or succession taxes actually paid to any state or territory of the United States (other than the state

of Montana), or to the District of Columbia. Provided, however, that the amount to be so credited shall in no event exceed that amount which the resident decedent was taxed on that property in Montana.

91-4413. **Exemption of Intangible Personal Property of Nonresident Decedents, When.** The tax imposed by sections 91-4401 to 91-4411, 91-4421 and 91-4425 in respect of personal property, except tangible personal property having an actual situs in this state, shall not be payable:

(1) If the decedent is a resident of a state or territory of the United States which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in that state or territory; or

(2) If the laws of the state or territory of residence of the nonresident decedent at the time of the transfer contained a reciprocal provision under which nonresidents of that state were exempted from transfer tax or death taxes of every character in respect of personal property, except tangible personal property having an actual situs in that state, providing the state or territory of residence of such nonresident decedent allowed a similar exemption to residents of this state.

91-4414. (10400.4) **Exemptions From First $25,000.** The following exemptions from the tax are hereby allowed, the exemption allowed to each person, institution, association, corporation and body politic to be taken out of the first twenty-five thousand dollars passing by any such transfer to such person, institution, association, corporation or body politic:

(1) Transfers totally exempt. All property transferred to the state or any of its institutions, or to municipal corporations within the state for strictly county, city, town, or municipal purposes, or to corporations or voluntary associations of this state organized under its laws solely for religious, charitable, educational or other public purposes, which shall use the property so transferred exclusively for the purpose of their organization within the state, and all transfers to any privately owned hospital for crippled children within the United States, primarily practicing orthopedics, to which crippled or afflicted children from the state of Montana are, without discrimination, gratuitously admitted and treated, shall be exempt.

(2) $17,500; $5,000; $2,000 exempt, when. Property of the clear value of seventeen thousand five hundred dollars, transferred to the wife, or five thousand dollars transferred to the husband of the decedent, and two thousand dollars transferred to each of the other persons described in the first subdivision of section 91-4409 shall be exempt. Such exemption to the widow shall include all her statutory dower and other

allowances. Any child of the decedent shall be entitled to credit for so much of the tax paid by the widow as applied to any property which shall thereafter be transferred by or from such widow to any such child, provided the widow does not survive said decedent to exceed ten years.

(3) $500 exempt, when. Property of the clear value of five hundred dollars transferred to each of the persons described in the second subdivision of section 91-4409 shall be exempt.

(4) Property without the state exempt, when. No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located and which tax has actually been paid, secured or guaranteed, provided such property is not without this state temporarily nor for the sole purpose of deposit or safekeeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state.

91-4415. (10400.5) **When Payment Due-Lien of Tax-Liability for Payment-Place of Payment-Receipts-Receipt or Bond Required Before Final Accounting Allowed.** All taxes imposed by this act shall be due and payable at the time of the death of the decedent, except as hereinafter provided; and every such tax shall be and remain a lien upon the property transferred for a period of ten (10) years from the time of the death of the decedent unless sooner paid, and the person to whom the property is transferred and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

The tax shall be paid to the state treasurer or to the treasurer of the county in which the district court is situated having jurisdiction as herein provided, and if paid to the county treasurer said treasurer shall make triplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax, with the amount thereof, and the other receipt shall be delivered to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts. One he shall keep on file in his office.

No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in settlement of which a tax is due under the provisions of this act, unless he shall produce such receipt or a certified copy thereof or unless a bond shall have been filed as prescribed by section 91-4419.

91-4416. (10400.6) **Discount-Interest.** If such tax is paid within eighteen months from the accruing thereof, a discount of five per cent shall be allowed and deducted therefrom. If such tax is

not paid within eighteen months from the accruing thereof, interest shall be charged and collected thereon at the rate of ten per cent per annum from the time the tax accrued; unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax shall not be determined and paid as herein provided, in which case interest at the rate of six per cent, shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten per cent shall be charged, provided that litigation to defeat the payment of the tax shall not be considered necessary litigation. In all cases when a bond shall be given under the provisions of section 91-4419, interest shall be charged at the rate of six per cent after one year from the date of death, until the date of payment thereof.

91-4417. (10400.7) **Powers of Representative in Collection and Payment of Tax-Collection from Legatees or Distributees.** Every executor, administrator or trustee shall have full power to sell so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate. Any such administrator, executor, or trustee, having in charge or in trust any legacy or property for distribution, subject to such tax, shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer, as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof, from the person entitled thereto. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this law, to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such real property until paid, and the payment thereof shall be enforced by the executor, administrator, or trustee in the same manner that payment of the legacy might be enforced, or by the attorney-general under section 91-4440. If any such legacy shall be given in money to any such person for a limited period the administrator, executor, or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment if the case require it, of the sum to be paid into the hands of such legatees, and for such further order relative thereto as the case may require.

91-4418. (10400.8) **Refunding of Tax—When Authorized—Manner of Refunding—Advance Payment of Tax for Relief from Penalty and Interest.** If any debt shall be proved against the estate of the decedent, after the payment of any legacy or distributive share thereof, from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share and such person is required by

the order of the district court having jurisdiction of the tax so deducted or paid, to refund the amount of such debts or any part thereof, an equitable proportion thereof shall be repaid to such person by the executor, administrator or trustee, if the said tax has not been paid to the county treasurer or state treasurer, or by them, in the proper proportionate shares, if it has been so paid.

When any amount of said tax shall have been paid erroneously to the county and state treasurer, or to either of them, it shall be lawful for them, on satisfactory proof to the state board of equalization of such erroneous payment, to refund to the executor, administrator, person or persons who shall have paid any such tax in error, the county's and state's proportionate amount of such tax so paid; provided that all such applications for refund shall be made within two (2) years from the date of such payment.

Any person from whom such tax is or may be due may make an estimate of and pay the same to the clerk of court, who shall receipt therefor, at any time before the same is determined by the court, and shall thereupon be relieved from any interest or penalty upon the amount so paid in the same manner as if the tax were then determined. The money shall be paid to the clerk of the district court who must deposit same with the county treasurer for credit to the clerk of the district court's deposit or trust fund until the correct amount of the tax has been determined. As soon as the correct amount of inheritance tax has been determined, any excess so paid shall be refunded to the person so paying or entitled thereto by such clerk of court out of said trust fund, and the county treasurer shall receipt for the amount of the inheritance tax so determined by the court.

91-4419. (10400.9) **Bond for Deferred Payment of Tax.** Any beneficiary of any property chargeable with a tax under this act, and any executors, administrators and trustees thereof, may elect, within eighteen months from the date of the death of decedent or transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof. The person or persons so electing shall give a bond to the state in a penalty of three times the amount of any such tax, with such sureties as the district court of the proper county or the state board of equalization, as the case may be, may approve, conditioned for the payment of such tax and interest thereon, at such time or period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be filed in the district court, or in the office of the state treasurer as the case may be. Such bond must be executed and filed and a full return of such property upon oath made to the district court within eighteen months from the date of the death of decedent or transfer as herein provided, and such bond must be renewed every five years, and said deferred tax shall bear interest at six per cent per annum after such eighteen months.

91-4420. (10400.10) **Bequests to Executors or Trustees—When Taxable.** If a testator bequeaths property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed, above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable by this act.

91-4421. (10400.11) **Payment of Tax on Transfer of Securities by Foreign Representative—Duty of Holder of Securities or Assets of Nonresident Decedent—Apportionment of Deductions—Information to be Given Board of Equalization—Amount of Tax to be Retained on Delivery of Assets—Penalties.**

(1) If a foreign executor, administrator, or trustee shall assign or transfer any stocks, bonds, mortgages, or other securities, in this state, or within the jurisdiction of this state, standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county or the state treasurer on the transfer thereof; otherwise the corporation permitting such transfer shall become liable to pay such tax.

(2) No safe deposit company, bank, or other institution, person or persons, holding securities or assets of a nonresident decedent, nor any corporation organized under the laws of this state, in which a nonresident decedent held stock, bonds, mortgages, or other securities, at his decease, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the state board of equalization at least ten (10) days prior to the said transfer; nor shall any such safe deposit company, bank, or other institution, person or persons, nor any corporation, deliver or transfer any securities or assets of the estate of a nonresident decedent without retaining a sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of the transfer of such securities or assets under the provisions of the inheritance tax laws, without an order from the proper court authorizing such transfer; and it shall be lawful for the state board of equalization, personally or by representative, to examine said securities or assets at any time before such delivery or transfer. Failure to serve such notice or to allow such examination or to retain a sufficient portion or amount to pay such tax as herein provided, shall render said safe deposit company, trust company, bank, or other institution, person or persons, or such corporation, liable to the payment of the tax due upon said securities or assets in pursuance of the provisions of the inheritance tax laws. The state board of equalization may issue a certfiicate authorizing the transfer of any such stock, securities or assets whenever it appears to the satisfaction of the said board that no tax is due thereon; provided, however, that the foregoing provisions shall

not apply to shares of stock in any Montana corporation held by a nonresident of Montana at the time of his death whose death occurred on or after January 30, 1945, and who was at the time of his death domiciled in any other district or state of the United States, provided reciprocal rights are granted by such district or state of domicile similar to section 91-4413, Revised Codes of Montana, 1947, and in such event this subsection (2) shall not apply to the transfer of stocks, bonds, mortgages or other securities exempt from taxation under the provisions of section 91-4413, and a Montana corporation, or its agent, may transfer stocks, bonds, mortgages and other securities without any liability for the tax imposed under the provisions of the inheritance tax laws where there are reciprocal rights as set forth in section 91-4413, and in such event no application for consent to transfer such stock need be made to the state board of equalization of the state of Montana, and the corporation, or its duly authorized transfer agent may transfer such shares of stock upon its books without any such application or consent to transfer.

(3) Whenever a tax may be due from the estate, or the beneficiaries therein, of any resident or nonresident decedent upon the transfer of any property, when the property or the estate left by such decedent is partly within and partly without this state, or upon any stocks, bonds, morgtages, or other securities representing property or estate partly within and partly without this state, any beneficiary of such estate shall be entitled to deduct only his proper proportion of that portion of the total debts and expenses of administration which the gross estate in Montana or within its jurisdiction bears to the gross estate both within and without this state, but no deduction shall be made for any federal estate, inheritance, succession or transfer taxes paid to the United States. As to his Montana exemption, each beneficiary shall be entitled to deduct only that portion represented by the ratio between his interest in the property in this state or within its jurisdiction and his interest in the entire estate.

(4) The state board of equalization shall require such reports and information and shall make such orders, rules, and regulations as it may deem necessary to enable the said board to secure the necessary information from domestic corporations, and to ascertain the amount of and collect such tax; and no holding company or other corporation subject to the provisions of this section shall deliver or transfer any such stocks, bonds, mortgages, or other securities of a Montana corporation without retaining a sufficient portion thereof to pay any tax which may thereafter be assessed under the provisions of this act on account of such transfer, except upon order of the proper court or a certificate of consent of the state board of equalization.

(5) Any corporation or holding company violating the provisions of this section shall be liable to the state for the amount of the tax together with a penalty of ten per centum (10%) thereof.

91-4422. (10400.12) **Retroactive Nature of Act.** This act is hereby expressly declared to be retroactive and shall apply to all estates where the decedent died on or after the first day of June, 1924, and which estates remain undistributed on the date when this act is passed and approved.

91-4423 (10400.13) **Jurisdiction of District Court—Notice to State Board Required Before Hearing.** The district court of every county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under the inheritance tax laws, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of the inheritance tax laws, and to do any act in relation thereto authorized by law to be done by a district court in other matters or proceedings coming within its jurisdiction; and if two (2) or more district courts shall be entitled to exercise any such jurisdiction, the district court first acquiring jurisdiction hereunder, shall retain the same to tthe exclusion of every other district court.

Before any decree determining inheritance tax in any estate shall be made by the court, the court shall require proof that due notice has been given to the state board of equalization before the hearing upon the petition to have inheritance tax determined, whether such hearing be at the time of the hearing on the final account or otherwise; and the court shall likewise require proof that a copy of such petition has been given to the board not later than the time of giving the notice; and, before the time fixed in said notice, said board shall cause to be filed, with the clerk of the district court, a certificate signed by the board stating that the amount of the inheritance tax determined to be due the state of Montana as appearing in the report or petition, has been properly computed therein, or, if no tax is due, such certificate shall so state; and, if the board shall object to the amount of the tax so computed, the board shall, before the time fixed for the hearing, file with the clerk of the court its written objections thereto, setting forth therein the nature of the objections. If neither such certificate nor objections shall have been filed at the time fixed for the hearing, it shall be conclusively presumed that the board concurs in the amount so computed.

91-4424. (10400.14) **Repealed—Chapter 50, laws of 1947.**

91-4425. (10400.15) **Determination of Tax Due From Estate of Nonresident Decedent—Application—Appeals.** (1) Any personal representative, trustee, heir, devisee or legatee of a nonresident decedent leaving no estate requiring administration in this state, desiring to transfer any stocks, bonds, mortgages or other securities, or other personal property in this state or within the jurisdiction of this state, may make application to the state board of equalization for the determination whether there is any tax due upon account of the transfer thereof, and the amount of any such tax, and such applicant shall furnish to the state board of equali-

zation therewith, an affidavit setting forth a description and statement of the property owned by the decedent situated within this state, or within its jurisdiction at the time of his death, the true value of said property at the time of decedent's death; a description and statement of the true value of all property owned by the decedent at the time of his death situated outside of this state, and without its jurisdiction; and containing a schedule or statement of all valid claims against the estate of the decedent, including the expenses of his last illness, funeral expenses and expenses of administering his estate. Such applicant shall also, at the same time, furnish the state board of equalization with a certified copy of the last will of the decedent, in case he died testate, or an affidavit setting forth the names, ages, and residence of the heirs at law of decedent in case he died intestate, and the proportion of the entire estate of said decedent inherited by each of said persons, and the relation, if any, which each legatee, devisee, heir or transferee sustained to the decedent, or person from whom the transfer was made. Such affidavit shall be subscribed and sworn to by the personal representative of the decedent, or some other person having knowledge of the facts therein set forth.

(2) The statement contained in any affidavits, statements or schedules as to values, or otherwise, shall not be binding upon the state board of equalization in case they believe the same to be erroneous or untrue. From the information so furnished them and such other information as they may be able to obtain with reference thereto, the state board of equalization shall, with reasonable diligence, proceed to ascertain and determine the amount of tax, if any, due under the provisions of this act, and notify the person making the application of the amount of the tax so ascertained and determined to be due; or in case there is no tax to be paid, the state board of equalization shall issue a consent to the transfer of the property so owned by the decedent.

(3) Any person aggrieved by the determination of the state board of equalization in any matter herein provided for in this section may, within thirty (30) days thereafter, appeal to the district court of Lewis and Clark county, by serving on the state board of equalization a notice in writing setting forth his objections to such determination, and by filing such notice, after so serving the same, in the office of the clerk of such court, and thereupon, and within ten (10) days after the service of such notice on them the state board of equalization shall transmit full and complete copies of all orgiinal papers and records which have been filed with them in relation to such application, to the clerk of said district court, and thereupon the said district court shall have jurisdiction of such application and proceeding. Upon ten days' notice given by either the applicant or the state board of equalization, the matter may be brought on for hearing and determination by said court, either in term time or in vacation, at a general or special term of court, or at chambers, as may be directed by the order of the court.

91-4426. (10400.16) **Determination When Application Not Made.** Whenever any nonresident decedent, leaving no estate requiring administration in this state, shall leave any stocks, bonds, mortgages, or other securities, or other personal property within the state or within the jurisdiction thereof, and no personal representative, trustee, heir, devisee, or legatee of such nonresident decedent has made application to the state board of equalization for the determination as to whether there is any tax due for the transfer thereof and the amount of such tax, if any, the state board of equalization, upon such matter being called to its attention, shall make an order, and cause a copy thereof to be served upon the personal representative, trustee, heirs, devisees or legatees of such nonresident decedent, ordering and directing that a statement and return, under oath, containing the statements and information prescribed in section 91-4425, be filed with such board within sixty (60) days from the date of such order, or within such further time as the state board of equalization may grant therefor; and if such statement is not filed with the state board of equalization within such time the state board of equalization may then procure such information in any manner it may deem advisable. Upon the filing of such statement, or the procuring of such information by the state board of equalization in the event of a failure to file the same in compliance with such order, the state board of equalization shall proceed in the same manner as prescribed by section 91-4425, and all provisions thereof with reference to hearings and appeals shall be applicable thereto.

91-4427. (10400.17) **Special Appraiser.** The district court, upon the application of any interested party, including the state board of equalization, shall appoint a competent person as special appraiser to fix the fair market value at the time of the transfer thereof of the property of persons whose estate shall be subject to the payment of any tax imposed by this act.

91-4428. (10400.18) **Duties, Powers and Compensation of Appraisers.** Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the state board of equalization, and to such persons as the district court may by order direct, of the time and place when he will appraise such property. He shall, at such time and place, appraise the same at its fair market value, as herein prescribed; and for that purpose the said appraiser is authorized to issue subpoenas and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof; and he shall make report thereof and of such value in writing, to the said district court, together with the depositions of the witnesses examined, and such other facts in relation thereto and to the said matter as the said district court may order or require. Every appraiser shall be paid on the certificate of the district court at the rate of not to exceed ten dollars ($10.00) per day for every day actually and necessarily employed in such appraisal, and shall

receive his actual and necessary traveling expenses, and witnesses shall be allowed the same fees as are allowed witnesses in civil actions in courts of record and the same shall be paid by the executor, administrator or trustee of such estate in the same manner as provided for the payment of other administration expenses.

91-4429. (10400.19) **Hearing By The Court.** The report of the special appraiser shall be made in triplicate, and not less than ten (10) days before the hearing thereon one of said triplicates shall be filed in the office of the district court, one to the administrator or the executor, and the other shall be mailed to the state board of equalization. At the time and place of hearing the administration account the district court shall examine such report, and from the report and other proofs relating to any such estate shall forthwith determine the cash value of such estate and the amount of tax to which the same is liable; or, the district court without appointing such appraiser may at the time so fixed hear the evidence and determine the cash value of such estate and the amount of tax to which the same is liable.

91-4430. (10400.20) **Notice of Hearing.** Notice of such hearing to determine the inheritance tax shall be given in the same manner and may be included in the notice of hearing the administration account, as provided by law. A copy of the application for exclusion of any property to avoid inheritance tax thereon shall be given with notice of hearing thereof, and notice of any such hearing shall be mailed to the state board of equalization not less than fifteen (15) days before such hearing, upon notice forms provided by said board and containing such information as it may require.

91-4431. (10400.21) **Commissioner of Insurance to Value Future Estates, Etc.** The commissioner of insurance shall, on application of any district court or of the state board of equalization, determine the value of any such future or contingent estates, income, or interests therein limited, contingent, dependent, or determinable upon the life or lives of the person or persons in being, upon the facts contained in the district court's finding and determination and contained in such special appraiser's report, and upon the facts certify the same to the district court or to the state board of equalization, and his certificate shall be presumptive evidence that the method of computation adopted therein is correct.

91-4432. (10400.22) **Appraisal a Clear Market Value at Time of Death—Time of Appraisal—Computing Value of Future Interests.** Whenever a transfer of property is made upon which there is, or in any contingency there may be, a tax imposed, such property shall be appraised at its clear market value existing at the date of death of the transferor, which appraisement shall be made as soon thereafter as practicable. The value of every future or limited estate, income, interest, or annuity dependent upon any life or lives in being, shall be determined by the rule, method, and standard of mortality and value employed by the commissioner

of insurance of the state of Montana, in ascertaining the value of policies of life insurance and annuities for the determination of liabilities of life insurance companies, except that the rate of interest for making such computation shall be five per cent (5%) per annum. The tax so determined shall be construed to be upon the transfer of a proportion of the principal or corpus of the estate equal to the present value of such future or limited estate, income, interest or annuity, and not upon any earnings or income of said property produced after death. Such tax shall be due and payable forthwith, except as otherwise provided in this act. This act is hereby declared to be retroactive and shall apply to all estates where the decedent died on or after the first day of June, 1945, and which estates remain undistributed on the date when this act is passed and approved.

91-4433. (10400.23) **Contingent Encumbrances.** In estimating the value of any estate or interest in property to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made in respect of any contingent encumbrance thereon, nor in respect of any contingency upon the happening of which the estate or property or some part thereof, or interest therein, might be abridged, defeated, or diminished; provided, however, that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of such estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax in respect of the amount or value of the encumbrance when taking effect or so much as will reduce the same to the amount which would have been assessed in respect to the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided in section 91-4418.

91-4434. (10400.24) **Repealed. Chapter 100, Laws 1955.**

91-4435. (10400.25) **Tax Payable Forthwith on Contingent Estate.** When property is transferred in trust or otherwise, and the rights, interests, or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such transfer at the lowest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith out of the property transferred; provided, however, that on the happening of any contingency or condition whereby the said property or any part thereof is transferred to a person or corporation, which under the provisions of this act is required to pay a tax at a higher rate than the tax imposed, then such transferee shall pay the difference between the tax imposed and the tax at the higher rate and the amount of such increased tax shall be enforced and collected as provided in this act.

91-4436. (10400.26) **Postponed Tax on Undiminished Value.** Estates in expectancy which are contingent or defeasible, and in which proceedings for determination of the tax have not been taken, or where the taxation thereof has been held in abeyance, shall be appraised at their full undiminished clear value when the person entitled thereto shall come into the beneficial enjoyment or possession thereof without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation upon which said estates in expectancy may have been limited. Where an estate for life or for years can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

91-4437. (10400.27) **Order Determining Tax-Contents.** Upon the determination by the district court of the value of any estate which is taxable under the inheritance tax laws, and of the tax to which it is liable, an order shall be entered by the court determining the same, which order shall include a statement of (a) the date of death of the decedent, (b) the gross value of the real and personal property of such estate, stating the principal items thereof, (c) the deductions therefrom allowed by the court, (d) the names and relationship of the persons entitled to receive the same, with the amount received by each, (e) the rates and amounts of inheritance tax for which each such person is liable, and the total amount of tax to be paid, (f) a statement of the amount of interest or penalty due, if any. Such order shall be substantially in the form prescribed by the state board of equalization. A copy of the same shall be delivered or mailed to the county treasurer, the state treasurer, the administrator or executor, and the state board of equalization, and no final judgment shall be entered in such estates until due proof is filed with the court that such copies have been so delivered or mailed, and receipts are filed with such court showing the payment of all such taxes, or proof is filed showing that the bond authorized by section 91-4419 has been given.

91-4438. (10400.28) **Rehearing Within Sixty Days.** The attorney general, state board of equalization, public administrator, county attorney, or any person dissatisfied with the appraisement or assessment and determination of such tax may apply for a rehearing thereof before the district court within sixty (60) days from the fixing, assessing and determination of the tax by the district court as herein provided on filing a written notice which shall state the grounds of the application for a rehearing. The rehearing shall be upon the records, proceedings, and proofs had and taken on the hearing as herein provided unless additional or newly discovered evidence be alleged therefor, and a new trial shall not be had or granted unless specially ordered by the district court.

91-4439. (10400.29) **Reappraisement in the District Court Within One Year.** Within one year after the entry of an order or decree of the district court determining the value of an estate and assessing the tax thereon, the attorney general or the state board of equalization may, if he (or they) believes that such appraisal,

assessment, or determination has been erroneously, fraudulently or colusively made, make application to the district judge for a reappraisal thereof. The district court to whom such application is made may thereupon appoint a competent person to reappraise such estate. Such appraiser shall possess the powers, be subject to the duties, shall give the notice and receive the compensation provided by sections 91-4428 to 91-4439, inclusive. Such compensation shall be payable by the county treasurer out of any funds he may have on account of any tax imposed under the provisions of this act, upon the certificate of the district judge. The report of such appraiser shall be filed in the office of the clerk of the district court, and thereafter the same proceedings shall be taken and had by and before such district court as herein provided to be taken and had by and before the said court. The determination and assessment of such district court shall supersede the former determination and assessment of such court, and shall be filed in the office of the county treasurer, state treasurer, and state board of equalization.

91-4440. (10400.30) **Collection of Unpaid Taxes.** If any county treasurer, state treasurer, or the state board of equalization shall have reason to believe that any tax is due and unpaid under the provisions of this act, after the refusal or neglect of any person liable therefor to pay the same, he or they, shall notify the attorney general in writing of such failure or neglect, and the attorney general, if he have probable cause to believe that such tax is due and unpaid, shall apply to the district court for a citation citing the person liable to pay such tax to appear before the court on the day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the district court upon such application and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation and the time, manner and proof thereof, and the hearing and determination thereof, shall conform as near as may be to the provisions of the laws governing probate practice of this state, and whenever it shall appear that any such tax is due and payable, and the payment thereof cannot be enforced under the provisions of this act, in said district court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax, and it shall be the duty of the attorney general, in the name of the state, to sue for and enforce the collection of such tax, and it is made the duty of the county attorney of the county to appear for and act on behalf of any county treasurer, who shall be cited to appear before any district court under the provisions of this act.

91-4441. (10400.31) **Special Administration to Determine Tax Compensation.** When no application for administration of the estate of any deceased person is made within six months after the demise of such person, and such estate appears to come under the provisions of the inheritance tax laws, or when administration

has been completed without determining the tax, the public administrator of the proper county, or any person interested in such estate, may make application for such special or general administration as may be necessary for the purpose of the adjustment and payment of such tax, if any, or if no tax is due, for an order determining that fact. In cases arising under this and the following section, the public administrator, if appointed such special administrator, shall be entitled in the discretion of the court to the fees allowed by law to administrators, or to other reasonable compensation, unless it be found that no tax is due.

91-4442. (10400.32) **Special Administration to Determine Tax Where Transfer Made in Contemplation of Death.** Where it appears that the estate of a deceased person subject to the inheritance tax laws was transferred in contemplation of the death of the grantor without the adjustment and payment of the inheritance taxes and no application for such adjustment is made within six months after the demise of such grantor, the public administrator of the proper county shall notify the state board of equalization and on its order make application for and shall be entitled to such general or special administration as may be necessary for the purpose of the adjustment and payment of the inheritance taxes provided by law and shall administer such estate the same as other estates are administered as though such estate had not been transferred by the grantor.

91-4443. (10400.33) **Public Administrator's Duty to Investigate Concerning Tax-Compensation.** It shall be the duty of the public administrator, under the general supervision of the state board of equalization, and with the assistance of the county attorney, when required by the said board or district judge, to investigate the estates of deceased persons within his county and to appear for and act in behalf of the county and state in the district court in such estates as the court may in its discretion deem necessary, and for such services the public administrator shall be entitled to five per cent of the gross inheritance tax as determined in each such estate, to be paid by the county treasurer out of the inheritance tax funds upon an order of the district judge, provided that the minimum fee for each such estate shall not be less than five dollars, and that it shall not exceed twenty-five dollars; but in cases of unusual difficulty, in estates of resident decedents, where the tax exceeds five hundred dollars, the district judge may allow the public administrator such additional compensation as he may deem just and reasonable.

91-4444. (10400.34) **State Board of Equalization to Supervise Inheritance Tax.** It shall be the duty of the state board of equalization to supervise the administration of, and to investigate and cause to be investigated the administration of the inheritance tax laws, and such particular estates to which the inheritance tax laws apply throughout the various counties of the state, and to cause to be made and filed in its office reports of such investiga-

tion together with specific information and facts as to particular estates that may seem to require special consideration and attention by the legal department of the state; but no information so acquired shall, in advance of legal action, be disclosed to anyone except proper officials and persons interested in such estate.

91-4445. (10400.35) **Powers and Duties of the Board.** The state board of equalization in the conduct of inheritance tax affairs, shall have the same and similar powers and authority for gathering information and making investigations as is conferred by law on said board in the performance of its other duties. The said board shall biennially report to the governor and to the legislature at the opening of the sessions the general result of its labors and investigations in inheritance tax matters during the previous biennial period, together with specific reports of the several counties where the administration of the inheritance tax laws has been lax and unsatisfactory, with such recommendations for action thereon by the legislature as may be deemed advisable and proper.

91-4446. (10400.36) **Powers and Duties in Nonresident Estates.** The state board of equalization shall also gather information and make investigations and reports concerning the estates of nonresident decedents within the provisions of the inheritance tax laws, and shall especially investigate the probate and other records for such probable estates without the state and report thereon from time to time to the legal department of the state and to the proper district court for appropriate legal action, but no informaion so acquired shall, in advance of legal action, be disclosed to anyone except proper officials, and persons interested in such estate.

91-4447. (10400.37) **Duty of the Legal Department of State.** It shall be the duty of the legal department of the state to carry out and enforce the recommendations and directions of the state board of equalization in all matters pertaining to the conduct of inheritance tax affairs; and in every estate in which the amount of inheritance tax collectible shall exceed or probably exceed the sum of one thousand dollars, there shall be no compounding, composition, or settlement of the taxes under the authority conferred by section 91-4451 or otherwise, until the state board of equalization shall have investigated such estate and made a report thereon, nor until the said board consents to such compounding, compromise, or settlement.

91-4448. (10400.38) **Forms and Blanks.** The state board of equalization shall prescribe such forms and prepare such blanks as may be necessary in inheritance tax proceedings in the district courts of the state; and such blanks shall be printed at the expense of the state and furnished to the district court upon the request of the judge or clerk thereof.

91-4449. (10400.39) **Duties of Clerks of District Courts.** It shall be the duty of the clerk of the district court to furnish to the state board of equalization copies of such documents filed in connection with probate matters as said board may require.

91-4450. (10400.40) **Quarterly Report of County Treasurer—Payment of Tax to State Treasurer—Interest on Unpaid Amounts.** Each county treasurer shall make a report under oath to the state treasurer, on prior to the 5th days of January, April, July and October of each year, of all taxes received by him under the inheritance tax laws, up to the first day of each of said months, stating for what estate, by whom and when paid. Said report shall be made in duplicate, the original to be mailed to the state treasurer, and the duplicate to the state board of equalization. The form of such report may be prescribed by the state treasurer. He shall at the same time pay the state treasurer all the taxes received by him under the inheritance tax laws and not previously paid into the state treasury, and for all such taxes collected by him and not paid into the state treasury within five days from the time herein required, he shall pay interest at the rate of ten per cent per annum.

91-4451. (10400.41) **Composition and Compromise.** The state board of equalization is authorized to enter into an agreement with the executor, administrator, or trustee of any estate in which remainders or expectant estates have been of such a nature or so disposed and circumstanced that the taxes therein were held not presently payable or where the interests of the legatees or devisees are not ascertainable under the provisions of this act, or whenever a tax is claimed on account of the transfer of any property of a nonresident decedent, and to compound such taxes upon such terms as may be deemed equitable and expedient and to grant discharges to said executors, administrators, or trustees upon the payment of the taxes provided for in such composition, provided, however, that no such composition shall be conclusive in favor of such executors, administrators, or trustees as against the interests of such cestui que trust as may possess either present rights of enjoyment or fixed, absolute, on indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto either personally when competent or by guardian. Composition or settlement made or effected under the provisions of this section shall be executed in triplicate and one copy shall be filed in the office of the clerk of the district court of the county in which the tax was paid; one copy to be delivered to the executors, administrators, or trustees, who shall be parties thereto, and one copy to be retained by said board.

91-4452. (10400.42) **Receipts, Copies, Recording.** Any person shall be entitled to a receipt from the county treasurer of any county, or the state treasurer, or at his option to a copy of a receipt that may have been given by such county treasurer or state

treasurer, for the payment of any tax under this act, under the official seal of such county treasurer, or state treasurer, which receipt shall designate upon whose estate such tax shall have been paid, by whom, and whether in full of such tax. Such receipt may be recorded in the office of the county recorder of the county in which such estate is situate in a book to be kept by him for that purpose, which shall be labeled "transfer tax."

91-4453. (10400.43) **Definitions.** The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and not as the property or interest therein of the decedent, grantor, donor, or vendor, and shall include all personal property within or without the state. The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein prescribed to each individual or corporation. The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor. "Intangible" or "intangible property" when used in this act without other qualifications, shall be taken to include all moneys, stocks, bonds, notes, securities and credits of all kinds, secured or unsecured. The words "county treasurer," "public administrator" and "county attorney," as used in this act shall be taken to mean the treasurer, public administrator, and county attorney of the county in which the district court has jurisdiction of the proceedings.

91-4454. (10400.45) **Employment of Assistants by Board and Fixing Compensation.** The state board of equalization may employ such other persons as experts and assistants as may be necessary to perform the duties that may be required of the board and fix their compensation.

91-4455. (10400.46) **Hearings by Board—Witness—False Testimony as Perjury—Compensation.** Oaths to witnesses in any matter under the investigation or consideration of the state board of equalization may be administered by the secretary of the board or by any member thereof. In case any witness shall fail to obey any summons to appear before said board or shall refuse to testify or answer any material questions or to produce records, books, papers, or documents, when required to do so, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to compel obedience to any summons or order of the board or to punish witnesses for any such neglect or refusal. Any person who shall testify falsely in any material manner under the consideration of the said board shall be guilty of and punished for perjury. In the discretion of the said board, officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the district court.

91-4456. (10400.47) **Repealing Clause—Effect of Repeal.** Sections 10377 to 10400, both inclusive, of the Revised Codes of Montana, 1921, and all other acts and parts of acts in conflict herewith are hereby repealed, provided, however, that such repeal shall not in any wise affect any suit, prosecution or proceeding pending at the time this act shall take effect, or any right which the state of Montana may have at the time of the taking effect of this act to claim a tax upon any property, or from any person, under the provisions of any of the sections or acts hereby repealed or under any prior laws repealed by such acts and which rights were reserved therein, for which no proceeding has been commenced to collect any tax arising thereunder, and where no proceeding has been commenced to collect any such tax the procedure to collect the same shall conform to the provisions hereof, and such repeal shall not affect any appeal or right of appeal in any suit now pending, or any order or orders fixing or determining the amount of any tax or taxes existing in this state at the time of the taking effect of this act.

91-4457. (10400.48) **To What Estates Act Applicable.** The provisions of this act shall apply to all estates of all decedents dying after the date when this act takes effect, and shall also apply to the estate of any decedent on which the inheritance tax has not been determined by the court and paid prior to the date when this act takes effect to the same extent, and in the same manner, as though this act had been in full force and effect at the date of death of such decedent.

91-4458. (10400.50) **List of Deaths to be Made by Registrar of Vital Statistics—County Clerks to Receive.** The state registrar of vital statistics shall prepare on or before the fifth of January, April, July and October of each year a list of all deaths, together with the date of such death, reported to him during such period and shall send a copy of such list of deaths to the county clerk of each county in the state.

91-4459. (10400.51) **Checking by County Clerk of Records and Transfers—Report to Board of Equalization.** The county clerk, upon the receipt of the list of deaths provided for in section 91-4458, shall immediately check the records of his county to determine whether any of the deceased persons whose names appear upon such list may have made any transfer of property or of property rights within such county during the three years preceding the death of such person or whether such deceased person may have been possessed of any property in such county at the time of his death.

If he shall find that any such deceased person may have made any such transfers of property or of property rights, or have died possessed of such, he shall immediately transmit such information to the state board of equalization.

91-4460. County clerk to furnish assessor description of property conveyed within three years of death of grantor. Wherever any deed conveying real property from husband to wife, or wife to husband, is filed with the county clerk and recorder within three (3) years prior to the date of death of the grantor, or, at or after the date of death of the grantor, it shall be the duty of the county clerk and recorder to furnish the county assessor with a description of the property so conveyed and the names of the grantor and the grantee.

History: En. Sec. 1, Ch. 248, L. 1961.

Title of Act

An act relating to the manner of determining inheritance taxes on the transfer by deed between husband to wife and wife to husband conveying real property within three (3) years of date of death or at or after death; establishing a procedure therefor; imposing certain duties on county clerk and recorders, county assessors and the state board of equalization; providing that the provisions of this act be governed by section 91-4416, Revised Codes of Montana, 1947; and establishing a valuation limitation.

91-4461. Assessor to appraise property and certify value to state board. It shall be the duty of the county assessor to appraise said property and, to certify to the state board of equalization the appraised value of the property so conveyed on a form to be provided by the state board of equalization for this purpose.

History: En. Sec. 2, Ch. 248, L. 1961.

91-4462. Form provided to grantee—contents. The county clerk and recorder, at the time of the filing of said deed, if the deed is filed at or after death, or when informed by the grantee or someone acting on behalf of the grantee of the death of a grantor within the three (3) year period above mentioned, shall furnish the grantee, or one acting on behalf of the grantee, a form to be prepared by the state board of equalization, which form shall show the degree of relationship between the grantor and the grantee and such other essential information as the state board of equalization may need in order to determine what, if any, inheritance tax may be due to the state of Montana by reason of the transfer of the property so conveyed. Said form shall also contain an affidavit of the grantee setting forth that the grantor died without having any other property necessitating the procuring of letters of administration, or letters testamentary, or special letters for the purpose of terminating joint tenancy and that to the knowledge of the grantee the property was not by will otherwise bequeathed. It shall also contain the name and address of any other heirs of the grantor.

History: En. Sec. 3, Ch. 248, L. 1961.

91-4463. Certificate of inheritance tax due. Upon receipt of the report of the county assessor, and the form and affidavit of the grantee, the state board of equalization shall issue to the grantee a certificate stating the amount of inheritance tax determined to be due to the state of Montana by reason of said transfer, or if no tax is due, such certificate shall so state.

History: En. Sec. 4, Ch. 248, L. 1961

91-4464. Payment by grantee of inheritance tax due—receipts for payment. If a tax is determined due by reason of said transfer the grantee shall pay the tax to the county treasurer, who shall make triplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax with the amount thereof. One receipt the county treasurer shall keep on file in his office. The other receipt shall be delivered to the grantee, or one acting in his behalf, which, when filed with the county clerk and recorder together with the certificate of the state board of equalization, shall be prima facie proof of the payment of any inheritance tax due by reason of said transfer. If the certificate shall determine no tax due by reason of said transfer, the filing of said certificate with the county clerk and recorder shall operate to the same effect. Payment of inheritance tax under this act shall be governed by the provisions of section 91-4416, Revised Codes of Montana, 1947.

History: En. Sec. 5, Ch. 248, L. 1961.

91-4465. Inclusion of after-discovered property in gross estate of decedent. If property is discovered after the issuance of such a certificate or the tax has been paid, and for which letters of administration or letters testamentary are issued, or are to be issued, the value of the real property so conveyed and for which a certificate shall have been issued pursuant to this act, shall be included in the gross estate of the deceased and, if a tax has theretofore been found due on the transfer and has been paid, credit shall be given for the amount so paid by the grantee toward any additional tax that may be found due and owing by reason of the value of the after-discovered property.

History: En. Sec. 6, Ch. 248, L. 1961.

91-4466. Separate appraisement of property by state board of equalization. Should the state board of equalization be-

lieve, or have reason to believe, the appraised value of the property as furnished by the county assessor is disproportionate to the actual value of the property, nothing contained herein shall be construed to prevent the state board of equalization from making or causing to be made, a separate appraisement of said property so conveyed.

History: En. Sec. 7, Ch. 248, L. 1961.

91-4467. Purpose of act—limitation on application. The purpose of this act is to provide a simplified procedure of removing the inheritance tax lien which attaches upon the death of a grantor where the transfer is from husband to wife, or wife to husband, and where the total value of the real property so transferred does not exceed the value of twenty thousand dollars ($20,000.00), at the time of death; provided, however, this act shall not apply to other transfers of property under the Inheritance Tax Act which require determination of the inheritance tax by the court to remove the lien of the inheritance tax.

History: En. Sec. 8, Ch. 248, L. 1961.

McKEE PRINT